



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0079; Notice 2]

Maserati North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Maserati North America, Inc.,(MNA), has determined that certain model year (MY) 2014-2021 Maserati Ghibli, Quattroporte, and Levante motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*. MNA filed a noncompliance report dated August 5, 2021. MNA subsequently petitioned NHTSA on August 30, 2021, and amended its petition on January 13, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of MNA's petition.

FOR FURTHER INFORMATION CONTACT: Syed Rahaman, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), (202) 306-7018, Syed.Rahaman@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Overview: MNA has determined that certain MY 2014-2021 Maserati Levante, Ghibli, and Quattroporte motor vehicles do not fully comply with paragraph S4.5.1(b)(3) of FMVSS No. 208, *Occupant Crash Protection* (49 CFR 571.208).

MNA filed a noncompliance report dated August 5, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MNA subsequently petitioned NHTSA on August 30, 2021, and amended its petition on January 13, 2022, for an exemption from the

notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of MNA's petition was published with a 30-day public comment period, on January 31, 2022, in the **Federal Register** (87 FR 4991). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2021-0079."

II. Vehicles Involved: Approximately 78,588 MY 2014-2021 Maserati Levante, Ghibli, and Quattroporte motor vehicles, manufactured between April 30, 2013, and July 13, 2021, are potentially involved.

III. Noncompliance: MNA explains that the subject vehicles are equipped with air bag warning labels that are affixed to the headliner, rather than either side of the sun visor, as required by S4.5.1(b) (3) of FMVSS No. 208.

IV. Rule Requirements: Paragraph S4.5.1(b)(3) of FMVSS No. 208, includes the requirements relevant to this petition. Vehicles certified to meet the requirements specified in S19, S21, or S23 on or after September 1, 2003, shall have a label permanently affixed to either side of the sun visor, at the manufacturer's option, at each front outboard seating position that is equipped with an inflatable restraint.

V. Summary of MNA's Petition: The following views and arguments presented in this section, "V. Summary of MNA's Petition," are the views and arguments provided by MNA. They do not reflect the views of the Agency. MNA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

MNA says that the sun visor is affixed with an air bag alert label that informs "passengers to flip the sun visor to the down position" to view the warning label. MNA also says that

although the air bag warning label is affixed to the headliner, the label is clearly visible when the sun visor is in the down position. In its petition, MNA provides computer-aided design (CAD) illustrations of the air bag alert label and noncompliant air bag warning label.

MNA states its belief that although the air bag warning label is not positioned on the sun visor, the combination with the air bag alert label on the sun visor with the warning label on the headliner provides a prominent display as intended by FMVSS No. 208. In support of this argument, MNA cites a 2016 Notice of Proposed Rulemaking (NPRM) on Vehicle Defect Reporting Requirements¹ in which MNA says NHTSA assessed “the suitability of the headliner for safety warning labels in Section IV, Alternatives Considered and Proposed for the Label, and finds the headliner to be an effective location for a safety warning label.” MNA cites NHTSA as stating that it recognizes “the headliner as an effective location for safety warning labels.” MNA further states that NHTSA has found the headliner to be of similar benefit as the sun visor for the placement of the air bag warning label. *Id.*

MNA says it “is not aware of any crashes, injuries, or customer complaints associated with this condition” and that production is being updated to correct the noncompliance in future vehicles.

MNA concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. NHTSA’s Analysis: In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.² In general, NHTSA does not consider the absence of complaints or injuries

¹ See 81 FR 85478 (November 28, 2016)

² See *Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 46000 (July 30, 2013) (finding

when determining if a noncompliance is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.³

NHTSA focuses on the consequence to an occupant who is exposed to the consequence of that noncompliance.⁴ The Safety Act is preventive, and manufacturers cannot and should not wait for deaths or injuries to occur in their vehicles before they carry out a recall.⁵ Indeed, the very purpose of a recall is to protect individuals from risk. *Id.*

FMVSS No. 208 S4.5.1(b)(3) requires air bag warning labels to be affixed to either side of the sun visor. The purpose of FMVSS No. 208 is to reduce the adverse effects of air bags by attracting the attention of vehicle occupants to look for the air bag warning label on the sun visor. In its petition, MNA explains that the subject vehicles are equipped with air bag warning labels that are affixed to the headliner, rather than either side of the sun visor

FMVSS No. 208 S4.5.1(c) requires an air bag alert label to be permanently affixed to the sun visor so that the label is visible when the visor is in the stowed position if the air bag warning label required by S4.5.1(b) is not visible when the sun visor is in the stowed position. The alert label must contain the content of the sun visor label as shown in Figure 6(c) of FMVSS No. 208. This requirement specifies that manufacturers, who place the label required by S4.5.1(b)(3) on the side of the visor that is hidden from the occupant when stowed, must place an air bag alert label on the visible part of the sun visor. MNA has done this and used the correct Figure 6(c) label. NHTSA believes this to be adequate notice to the occupant instructing them to “flip visor

occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

³ See *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016); see also *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it “results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future”).

⁴ See *Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance*, 64 FR 29408, 29409 (June 1, 1999).

⁵ See, e.g., *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977).

over” and view the full air bag warning label. In the case of the subject vehicles, the occupant would clearly see the required warning label on the headliner directly above the sun visor.

NHTSA has evaluated the merits of the inconsequential noncompliance petition submitted by MNA and has determined that this particular noncompliance is inconsequential to motor vehicle safety. NHTSA agrees with MNA that the noncompliant placement of the air bag warning label in the subject vehicles is inconsequential. Paragraph S4.5.1(b)(3) allows for placement of the air bag warning label on either side of the sun visor, including the side that is hidden from the driver when stowed. Paragraph S4.5.1(c) requires an instructional alert label informing the occupant to flip the visor over, placing the visor in the down position, for more information. MNA explained that the label is clearly visible when the sun visor is in the down position and is displayed as intended by FMVSS No. 208.

VII. NHTSA’s Decision: In consideration of the foregoing, NHTSA finds that MNA has met its burden of persuasion that the subject FMVSS No. 208 noncompliance in the affected vehicles is inconsequential to motor vehicle safety. Accordingly, MNA’s petition is hereby granted and MNA is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that MNA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after MNA notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

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